



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,204	02/18/2004	Floyd Backes	160-020	1946

34845 7590 06/14/2007  
McGUINNESS & MANARAS LLP  
125 NAGOG PARK  
ACTON, MA 01720

EXAMINER
----------

HAROON, ADEEL

ART UNIT	PAPER NUMBER
----------	--------------

2618

MAIL DATE	DELIVERY MODE
-----------	---------------

06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**MAILED**

**JUN 14 2007**

**Technology Center 2600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/781,204  
Filing Date: February 18, 2004  
Appellant(s): BACKES ET AL.

Floyd Backes, Gary Vacon, Paul Callahan, William Hawe, and Roger Durand  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 4/2/07 appealing from the Office action  
mailed 3/31/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The amendment after final rejection filed on 4/2/07 has been entered.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. The amendment filed 4/2/07 has overcome the 35 U.S.C. 112, second paragraph rejection made in the Office Action mailed 3/21/07; therefore, the 35 U.S.C. 112 second paragraph rejection has been withdrawn.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

7136665

Ida et al.

11-2006

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Ida et al. (U.S. 7,136,665).

With respect to claim 1, Ida et al. disclose an apparatus for adjusting transmission power of a first fixed location device, base transceiver station, capable of communicating with a plurality of mobile devices associated with the first fixed location device in a wireless communication environment (Column 1, lines 9-17). Ida et al. disclose detecting a second fixed location device which is the nearest other fixed location device (Column 5, lines 16-36). Ida et al. teach that the first and second fixed location devices operate on the same radio frequency channel (Column 5, lines 16-24). Ida et al. disclose ascertaining the locations of the fixed location devices and the mobile station and determining the nearest fixed location device to the mobile station (Column 2, lines 41-56). Ida et al. further disclose setting the transmit power based on these distances (Column 6, lines 26-53).

With respect to claim 2, Ida et al. disclose setting a power level backoff of another device (Column 6, lines 40-53).

#### **(10) Response to Argument**

Appellant's arguments have been fully considered and are deemed not persuasive for following reasons.

The Appellant argues that Ida fails to teach adjusting transmit power as a function of both distance to the mobile device and the distance to the nearest neighbor fixed location device as claimed in the final two limitations of Appellant's claim 1. The examiner respectfully disagrees.

Ida teaches using the base transceiver station location information generating means 12 to generate "base transceiver station location information including at least the base transceiver station forming in the area in which the mobile station 3 belongs and indicating the present location of at least one base transceiver station adjoining that base transceiver station" (Column 6, lines 26-31). Since the locations of two adjoining base transceiver stations are ascertained, the original transmission power settings were set based on the distance between the adjoining base transceiver stations.

Ida further teaches determining the locations of at least two adjoining base transceiver stations and controlling the transmission power of these base transceiver stations (Column 6, lines 32-40). Ida discloses obtaining "the positional coordinates of the at least two adjoining base transceiver stations" and applying these coordinates to the formulas in Column 7, lines 25-30 in order to determine the distances of the base transceiver stations. From the calculation results, the system specifies the base transceiver station with the smallest distance and the base transceiver station with the largest distance thus performing the comparison function of the two fixed location devices as claimed in Appellant's claim 1 (Column 7, lines 34-37).

For the base transceiver station with the smallest distance, Ida teaches raising the transmission power to communicate with the mobile station (Column 7, lines 62-66). Since the transmission power was raised to communicate with the mobile station and according to the distance measured from the mobile station, it is interpreted as disclosing Appellant's claimed limitation of the "transmit power is set based on distance to the first mobile device".

On the other hand, "the transmission power is not raised for at least one other adjoining base transceiver station. As a candidate for this at least one other adjoining base transceiver station, the base transceiver station having the largest distance from the mobile station or the base transceiver station" (Column 8, lines 1-7). Since the transmission power is not changed and held at the original transmission power setting, it is interpreted as disclosing Appellant's claimed limitation of the "transmit power is set based on distance to the second fixed location device" because the original transmission power settings were set according to the distances between the two base transceiver stations.

Therefore, it is believed that Ida does teach adjusting transmit power as a function of both distance to the mobile device and distance to the nearest neighbor fixed location device.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



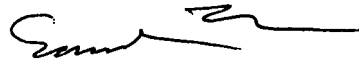
Adeel Haroon AD: 2618

June 5, 2007

Conferees:

Edward Urban

SPE Art Division 2618



EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Mathew Anderson

SPE Art Division 2618



MATTHEW ANDERSON  
SUPERVISORY PATENT EXAMINER